

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Bail Appl..No. 4721 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.3718/2007 Dated 20/06/2007
CRIME NO.108/07 OF POTHENCODE POLICE STATION
.....

PETITIONER: ACCUSED:

S. SATHEESHAN NAIR,
S/O. N.SUKUMARAN NAIR, MANIMANGALAM,
SANTHIGIRI P.O., POTHENCODE.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS: STATE & COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. THE SUB INSPECTOR OF POLICE,
POTHENCODE POLICE STATION, THIRUVANANTHAPURAM DIST.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

B.A.No.4721 of 2007

Dated this the 6th day of August 2007

O R D E R

Second application for anticipatory bail. I have already adverted to facts in detail in the order dated 20/6/2007 in B.A.No.3718/2007. This order must be read in continuation of the said order and I am not hence adverting to facts in meticulous details.

2. The crux of the allegations is that the petitioner, who has animosity towards his brother-in-law/victim on account of certain property disputes, engaged the other accused persons, five in number through the second accused. They hired the vehicle of the victim/brother-in-law. When the vehicle with the brother-in-law was proceeding, he was stopped and an attack was mounted on the victim/brother-in-law. Initially, the brother-in-law did not suspect the petitioner. But as days passed by, he apprehended the involvement of the petitioner in the incident. Accused 4 and 7 have subsequently been arrested on 4/7/2007 and 16/7/2007. In the course of their interrogation, the police have now come to the conclusion that the petitioner is the brain behind the incident and he had engaged accused 1 to 5 through the second accused to perpetrate this crime against the brother-in-law/victim.

3. Report dated 30/7/2007 has been filed arraying the petitioner as the sixth accused. The petitioner is required to be arrested. Application for anticipatory bail is opposed. Custodial interrogation of the petitioner is absolutely necessary to properly resolve this crime, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I am of the opinion that there is merit in the opposition of the learned Public Prosecutor and there is absolutely no reason to take a different view from the one taken in the order dated 20/6/2007 referred above. I find no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007